

## **BILL ANALYSIS**

C.S.S.B. 365  
By: Carona  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties recognize the need to address the lengthy credentialing process for a licensed podiatrist or a licensed therapeutic optometrist to be designated by an insurer as a preferred provider upon joining a professional practice. Such parties note that, while current law provides for an expedited credentialing process for physicians, there are no similar statutory provisions for the expedited credentialing of podiatrists or therapeutic optometrists. C.S.S.B. 365 seeks to address this lack by providing for such an expedited credentialing process for a licensed podiatrist and a licensed therapeutic optometrist.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 365 amends the Insurance Code to make a podiatrist or a therapeutic optometrist who joins an established professional practice that has a current contract in force with a managed care plan eligible for expedited credentialing and payment if the applicant podiatrist or the applicant therapeutic optometrist is licensed in Texas by, and in good standing with, the Texas State Board of Podiatric Medical Examiners or the Texas Optometry Board, as applicable; submits all information required by the issuer of the managed care plan as necessary to begin the credentialing process to include a podiatrist or a therapeutic optometrist in the issuer's health benefit plan network; and agrees to comply with the terms of the managed care plan's participating provider contract currently in force with the applicant's established professional practice.

C.S.S.B. 365 requires a managed care plan issuer, on submission by the applicant podiatrist or the applicant therapeutic optometrist of the information required by the issuer to begin the credentialing process, and for payment purposes only, to treat the applicant as if the applicant were a participating provider in the health benefit plan network when the applicant provides services to the managed care plan's enrollees, including authorizing the applicant to collect copayments from the enrollees and making payments to the applicant. The bill authorizes the managed care plan to exclude the applicant from the managed care plan's directory of participating podiatrists or participating therapeutic optometrists, website listing of participating podiatrists or participating therapeutic optometrists, or any other listing of participating podiatrists or participating therapeutic optometrists, pending the approval of a submitted application.

C.S.S.B. 365 authorizes a managed care plan issuer who, on completion of the credentialing process, determines that the applicant podiatrist or the applicant therapeutic optometrist does not meet the issuer's credentialing requirements to recover from the applicant, or from the applicant's professional practice an amount equal to the difference between payments for in-network benefits and out-of-network benefits, and authorizes the applicant or the applicant's professional

practice to retain any copayments collected or in the process of being collected as of the date of the issuer's determination.

C.S.S.B. 365 establishes that an enrollee in the managed care plan is not responsible for, and requires that the enrollee be held harmless for, the difference between in-network copayments paid by the enrollee to a podiatrist or to a therapeutic optometrist who is determined to be ineligible and the managed care plan's charges for out-of-network services. The bill prohibits the podiatrist and the podiatrist's professional practice or the therapeutic optometrist and the therapeutic optometrist's professional practice from charging the enrollee for any portion of the podiatrist's or the therapeutic optometrist's fee that is not paid or reimbursed by the enrollee's managed care plan. The bill establishes that a managed care plan issuer that complies with the bill's provisions is not subject to liability for damages arising out of or in connection with, directly or indirectly, the payment by the issuer of an applicant podiatrist or of an applicant therapeutic optometrist as if the podiatrist or therapeutic optometrist were a participating provider in the health benefit plan network.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.S.B. 365 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Chapter 1452, Insurance Code, is amended by adding Subchapter D to read as follows: <u>SUBCHAPTER D. EXPEDITED CREDENTIALING PROCESS FOR CERTAIN PODIATRISTS</u>	SECTION 1. Chapter 1452, Insurance Code, is amended by adding Subchapters D and E to read as follows: <u>SUBCHAPTER D. EXPEDITED CREDENTIALING PROCESS FOR CERTAIN PODIATRISTS</u>
<u>Sec. 1452.151. DEFINITIONS.</u>	<u>Sec. 1452.151. DEFINITIONS.</u>
<u>Sec. 1452.152. APPLICABILITY.</u>	<u>Sec. 1452.152. APPLICABILITY.</u>
<u>Sec. 1452.153. ELIGIBILITY REQUIREMENTS.</u>	<u>Sec. 1452.153. ELIGIBILITY REQUIREMENTS.</u>
<u>Sec. 1452.154. PAYMENT OF APPLICANT PODIATRIST DURING CREDENTIALING PROCESS.</u>	<u>Sec. 1452.154. PAYMENT OF APPLICANT PODIATRIST DURING CREDENTIALING PROCESS.</u>
<u>Sec. 1452.155. DIRECTORY ENTRIES.</u>	<u>Sec. 1452.155. DIRECTORY ENTRIES.</u>
<u>Sec. 1452.156. EFFECT OF FAILURE TO MEET CREDENTIALING REQUIREMENTS.</u>	<u>Sec. 1452.156. EFFECT OF FAILURE TO MEET CREDENTIALING REQUIREMENTS.</u>
<u>Sec. 1452.157. ENROLLEE HELD HARMLESS.</u>	<u>Sec. 1452.157. ENROLLEE HELD HARMLESS.</u>

Sec. 1452.158. LIMITATION ON  
MANAGED CARE ISSUER LIABILITY.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

Sec. 1452.158. LIMITATION ON  
MANAGED CARE ISSUER LIABILITY.

SUBCHAPTER E. EXPEDITED  
CREDENTIALING PROCESS FOR  
CERTAIN THERAPEUTIC  
OPTOMETRISTS

Sec. 1452.201. DEFINITIONS. In this  
subchapter:

- (1) "Applicant therapeutic optometrist" means a therapeutic optometrist applying for expedited credentialing under this subchapter.
- (2) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.
- (3) "Health care provider" has the meaning assigned by Section 1452.151.
- (4) "Managed care plan" has the meaning assigned by Section 1452.151.
- (5) "Participating provider" means a health care provider who has contracted with a health benefit plan issuer to provide services to enrollees.
- (6) "Professional practice" means a business entity that is owned by one or more therapeutic optometrists or physicians.

Sec. 1452.202. APPLICABILITY. This subchapter applies only to a therapeutic optometrist who joins an established professional practice that has a current contract in force with a managed care plan.

Sec. 1452.203. ELIGIBILITY REQUIREMENTS. To qualify for expedited credentialing under this subchapter and payment under Section 1452.204, an applicant therapeutic optometrist must:

- (1) be licensed in this state by, and in good standing with, the Texas Optometry Board;
- (2) submit all documentation and other information required by the issuer of the managed care plan as necessary to enable the issuer to begin the credentialing process required by the issuer to include a therapeutic optometrist in the issuer's health benefit plan network; and
- (3) agree to comply with the terms of the managed care plan's participating provider contract currently in force with the applicant therapeutic optometrist's established professional practice.

No equivalent provision.

Sec. 1452.204. PAYMENT OF APPLICANT THERAPEUTIC OPTOMETRIST DURING CREDENTIALING PROCESS. On submission by the applicant therapeutic optometrist of the information required by the managed care plan issuer under Section 1452.203(2), and for payment purposes only, the issuer shall treat the applicant therapeutic optometrist as if the therapeutic optometrist were a participating provider in the health benefit plan network when the applicant therapeutic optometrist provides services to the managed care plan's enrollees, including:  
(1) authorizing the applicant therapeutic optometrist to collect copayments from the enrollees; and  
(2) making payments to the applicant therapeutic optometrist.

No equivalent provision.

Sec. 1452.205. DIRECTORY ENTRIES. Pending the approval of an application submitted under Section 1452.204, the managed care plan may exclude the applicant therapeutic optometrist from the managed care plan's directory of participating therapeutic optometrists, the managed care plan's website listing of participating therapeutic optometrists, or any other listing of participating therapeutic optometrists.

No equivalent provision.

Sec. 1452.206. EFFECT OF FAILURE TO MEET CREDENTIALING REQUIREMENTS. If, on completion of the credentialing process, the managed care plan issuer determines that the applicant therapeutic optometrist does not meet the issuer's credentialing requirements:  
(1) the managed care plan issuer may recover from the applicant therapeutic optometrist or the therapeutic optometrist's professional practice an amount equal to the difference between payments for in-network benefits and out-of-network benefits; and  
(2) the applicant therapeutic optometrist or the therapeutic optometrist's professional practice may retain any copayments collected or in the process of being collected as of the date of the issuer's determination.

No equivalent provision.

Sec. 1452.207. ENROLLEE HELD HARMLESS. An enrollee in the managed

care plan is not responsible and shall be held harmless for the difference between in-network copayments paid by the enrollee to a therapeutic optometrist who is determined to be ineligible under Section 1452.206 and the managed care plan's charges for out-of-network services. The therapeutic optometrist and the therapeutic optometrist's professional practice may not charge the enrollee for any portion of the therapeutic optometrist's fee that is not paid or reimbursed by the enrollee's managed care plan.

No equivalent provision.

Sec. 1452.208. LIMITATION ON MANAGED CARE ISSUER LIABILITY. A managed care plan issuer that complies with this subchapter is not subject to liability for damages arising out of or in connection with, directly or indirectly, the payment by the issuer of an applicant therapeutic optometrist as if the therapeutic optometrist were a participating provider in the health benefit plan network.

SECTION 2. The change in law made by this Act applies only to credentialing of a podiatrist under a contract entered into or renewed by a professional practice and an issuer of a managed care plan on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 2. The change in law made by this Act applies only to credentialing of a podiatrist **or a therapeutic optometrist** under a contract entered into or renewed by a professional practice and an issuer of a managed care plan on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as engrossed version.